

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEY  
Caption in Compliance with D.N.J. LBR 9004-1(a)

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In Re:

DIANNA GUADAGNINO

Debtor.

**FILED**  
JEANNE A. NAUGHTON, CLERK

FEB 13 2019

U.S. BANKRUPTCY COURT  
NEWARK, N.J.  
BY \_\_\_\_\_ DEPUTY

Case No.: 17-12951(RG)

Chapter: 11

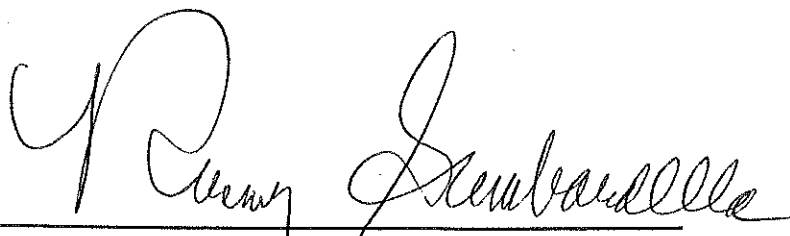
Hearing Date: Feb 7, 2019  
at 11:00 am

Judge: Honorable Rosemary  
Gambardella

### ORDER APPROVING POST PETITION FINANCING

The relief set forth on the following pages, numbered two (2) through four (4) is  
**ORDERED.**

2-13-19

  
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**THIS MATTER** having come before the court on the application of Dianne Guadagnino, the debtor in the above captioned matter ("Debtor"), through her counsel, Cullen and Dykman LLP, seeking the entry of an Order pursuant to Section 364 of the Bankruptcy Code approving Post-Petition Financing regarding the real property located at 287 Communipaw Avenue, Jersey City, New Jersey ("Communipaw Property"), expunging various judgment liens upon the Communipaw Property, and granting related relief, it appearing that the proposed financing will simply replace the existing first mortgage of M&T Bank upon the Communipaw Property, it appearing that Dianne Clemente, the second mortgage holder upon the Communipaw Property, has voluntarily discharged her mortgage, it appearing that there are is a judgment entered in favor of Vivian Martinez, it appearing that Ms. Martinez has not levied upon the Communipaw Property, and consequently, such judgment lien is avoidable pursuant to Section 544(a), it appearing that the Debtor has reached an agreement with respect to satisfying the judgments held by the New Jersey Division of Taxation and the New Jersey Motor Vehicle Commission, and the Court having considered the Debtor's motion and any opposition thereto, and good and sufficient cause appearing therefrom for the entry of this order, it is hereby

**ORDERED**, the Debtor is authorized pursuant to Sections 364(c) of the Bankruptcy Code to obtain financing from Toby Mug Financing LLC ("Toby") in the amount of up to \$450,000.00 for purposes of satisfying M&T Bank's first mortgage upon the Communipaw Property and satisfying miscellaneous costs associated therewith; and it is further

**ORDERED** that Toby's foregoing financing is hereby granted a first mortgage to secure its loan upon the Communipaw Property in connection with the foregoing financing; and a second

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mortgage upon the Debtor's real property located at 252 Suydam Street, Jersey City, New Jersey, and it is further

**ORDERED** that the provisions of the automatic stay will not apply to Toby's financing or mortgages as provided for herein, and upon default Toby shall be permitted to pursue all enforcement actions regarding its financing without seeking or obtaining relief from the automatic stay, and it is further

**ORDERED**, that the Debtor is authorized to execute all documents, remit all ordinary and necessary filing fees and costs, including Toby's points, counsel fees, and take all actions reasonably required in order to consummate the foregoing financing, and it is further

**ORDERED**, the second mortgage held by Dianne Clemente upon the Communipaw Property is hereby expunged and reclassified as an unsecured claim, and it is further

**ORDERED**, the judgment lien pursuant to a judgment entered on April 27, 2015 in favor of Vivian Martinez in the amount of \$67,924.63, J-064343 is hereby expunged and such claim is reclassified as an unsecured claim, and it is further

**ORDERED**, the Debtor is authorized to remit full payment upon the tax sale certificate held by Jai Bajrangi Invest, LLC in the approximate amount of \$3,092.58 and obtain a release of such claim, and it is further

**ORDERED**, the Debtor is authorized to remit the following payments and obtain a release of the liens arising therefrom: (i) judgment entered on August 20, 2015 in favor of the New Jersey Division of Taxation in the amount of \$3,428.38, DJ-142657-15, and (ii) judgment entered on January 18, 2017 in favor of the New Jersey Division of Motor Vehicles in the amount of \$330.25, DJ-005675-17, and it is further

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**ORDERED**, M&T Bank will retain its pre-petition foreclosure judgment and lien upon the Communipaw Property until same is fully satisfied from the Toby financing approved herein, and it is further

**ORDERED**, the Debtor will close upon the Toby financing and fully satisfy M&T's first mortgage upon the Communipaw Property within forty-five (45) days of entry of this order, and M&T will discharge its mortgage and file a warrant to satisfy its judgment upon its receipt of full payment as provided herein, and it is further

**ORDERED**, in the event M&T's claim remains unsatisfied forty-five (45) days following the entry of this Order, M&T will be authorized to file a certification of default upon ten (10) days' notice to the Debtor and her counsel, and seek an order granting M&T relief from the automatic stay to proceed with a sheriff's sale of the Communipaw Property, and it is further

**ORDERED**, subject to the availability of funds from the Toby financing, the Debtor is authorized to borrow up to \$10,000.00 from the Toby financing in order to escrow funds to satisfy amounts due to Cullen and Dykman LLP, the Debtor's counsel, with such funds to be held in the firm's trust account pending the Court's review and approval of the firm's fees and expenses, and it is further

**ORDERED**, that the Debtor will serve a copy of this Order by regular mail within five (5) days upon the United States Trustee, M&T Bank, Dianne Clemente, the City of Jersey City, Jai Bajrangi Invest, LLC, Vivian Martinez, the New Jersey Division of Motor Vehicles, the New Jersey Division of Taxation, and all parties that have filed a notice of appearance in this matter.

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